

UNITED STATES DEPARTMENT OF TRANSPORTATION FEDERAL TRANSIT ADMINISTRATION (FTA)

Frequently Asked Questions on FTA's Public Transportation Agency Safety Plan Notice of Proposed Rulemaking

February 16, 2016

Question 1: Why do I need to create a Public Transportation Agency Safety Plan if my public transportation system is already safe?

Answer: Congress mandated that each operator of a public transportation system draft and carry out a Public Transportation Agency Safety Plan because in recent years, there have been several major transit accidents that resulted in fatalities, injuries, and significant property damage. Congress provided FTA with the authority to develop a rule to implement this requirement through Section 20021 of the Moving Ahead for Progress in the 21st Century (MAP-21) Act, which is codified at 49 U.S.C. § 5329(d) and was reauthorized in the Fixing America's Surface Transportation (FAST) Act.

From 2004 to 2013, the National Transportation Safety Board reported on nine transit accidents that, collectively, resulted in 15 fatalities, 297 injuries, and over \$30 million in property damages. During that same period, transit agencies reported over 40,000 incidents, approximately 2,000 fatalities, and over 76,000 injuries to FTA's National Transit Database.

Question 2: What is the relationship between the Public Transportation Agency Safety Plan and the National Public Transportation Safety Plan?

Answer: The relationship between Public Transportation Agency Safety Plan and the National Public Transportation Safety Plan is rooted in the requirement that operators of public transportation systems establish safety performance targets based on safety performance criteria set by FTA. Pursuant to 49 U.S.C. § 5329(b)(2)(A), FTA's National Public Transportation Safety

Plan must include “safety performance criteria for all modes of public transportation,” and in accordance with 49 U.S.C. § 5329(d)(1)(E), transit agencies must include in their Public Transportation Agency Safety Plans “performance targets based on the safety performance criteria.”

In the proposed National Public Transportation Safety Plan, FTA would establish four safety performance criteria: (1) Fatalities, (2) Injuries, (3) Safety Events, and (4) System Reliability. In each Public Transportation Agency Safety Plan, transit agencies would have to set performance targets based on these four criteria. After establishing their safety performance targets, transit agencies would have to make them available to States and Metropolitan Planning Organizations (MPO) to assist States and MPOs in the planning process.

Question 3: How would FTA ensure compliance with the Public Transportation Agency Safety Plan Rule?

Answer: Under the proposed rule, on an annual basis, a transit agency or State would be required to certify its compliance with this rule. In addition, FTA is proposing to ensure compliance with the Public Transportation Agency Safety Plan Rule through its existing Triennial Review and State Management Review processes. FTA conducts these oversight reviews triennially, and although they are less exacting than audits, FTA uses them to review transit agencies’ compliance with a wide range of Federal laws and regulations. FTA intends to add safety as an issue area that it will examine during these reviews. If FTA identifies any areas of non-compliance, FTA can direct transit agencies to take corrective action, or it can take other appropriate measures, as necessary, up to and including “the most severe.”

Question 4: Would each operator of a public transportation system need to implement a Safety Management System (SMS)?

Answer: Yes, FTA is proposing to require each operator of a public transportation system to implement SMS. FTA proposes to define the term “operator of a public transportation system” to mean “a provider of public transportation as defined under 49 U.S.C. § 5302(14), and which

does not provide service that is closed to the general public and only available for a particular clientele.” The rule would apply to the majority of FTA’s recipients and subrecipients, but it would not apply to those that do not provide open-door public transportation service, such as recipients of FTA’s Enhanced Mobility of Seniors and Individuals with Disabilities Formula Program at 49 U.S.C. § 5310 that only serve a particular clientele, including certain churches and some non-profit organizations. The rule also would not apply to educational institutions that receive research funds under 49 U.S.C. § 5312.

To reduce the administrative, financial, and regulatory burdens on small public transportation providers, which FTA proposes to define as recipients and subrecipients that have one hundred or fewer vehicles in revenue service and do not operate rail fixed-guideway public transportation systems, FTA is proposing to require States to draft and certify Public Transportation Agency Safety Plans on their behalf. However, each small public transportation provider may opt to draft or certify their own safety plans upon notification to the State, but if they are drafted and certified by a State, then the transit agency would be required to carry out and implement the plan including all SMS-related activities. Each transit agency is in the best position to identify safety hazards and evaluate safety risks within their own unique systems. FTA notes that SMS is an inherently scalable system and that it can be tailored to meet the unique needs of smaller agencies. FTA intends to provide SMS templates, guidance documents, and technical assistance to States and transit agencies to assist with this process.

Question 5: If I am a State Department of Transportation, what do I have to do in terms of Public Transportation Agency Safety Plans?

Answer: In accordance with 49 U.S.C. § 5329(d)(3), FTA is proposing to require States to draft and certify Public Transportation Agency Safety Plans on behalf of all small public transportation providers, recipients and subrecipients of financial assistance under FTA’s Rural Area Formula Program at 49 U.S.C. § 5311, and recipients and subrecipients of FTA’s Enhanced Mobility of Seniors and Individuals with Disabilities Formula Program at 49 U.S.C. § 5310 that operate public transportation systems. However, each of these transit providers may opt to draft or certify their own Public Transportation Agency Safety Plans upon notification to the State.

FTA intends to provide Public Transportation Agency Safety Plan and SMS templates, guidance documents, and technical assistance to States and transit agencies to assist with this process.

Additionally, each operator of a public transportation system must provide the State in which they operate with their safety performance targets to assist the State and Metropolitan Planning Organizations (MPO) to assist States and MPOs in the planning process.

Finally, FTA is proposing to require State Safety Oversight Agencies to review and approve each Public Transportation Agency Safety Plan of rail transit agencies that are subject to their jurisdiction and not regulated by the Federal Railroad Administration.

Question 6: Will FTA provide any financial assistance to support the drafting, certification, and implementation of Public Transportation Agency Safety Plans?

Answer: Congress did not create a separate, stand-alone FTA funding program to support the drafting, certification, and implementation of Public Transportation Agency Safety Plans.

However, these activities may be eligible for FTA financial assistance through various programs under 49 U.S.C. Chapter 53, such as FTA's existing Planning Program at 49 U.S.C. § 5305, Urbanized Area Formula Program at 49 U.S.C. § 5307, Rural Area Formula Program at 49 U.S.C. § 5311, State of Good Repair Program at 49 U.S.C. § 5337, and Bus and Bus Facilities Formula Program at 49 U.S.C. § 5339.